



12-26-01

GA 4/1615

RECEIVED  
DEC 28 2001  
TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: JAMES HUGH McLAUGHLIN

Examiner:

Serial No.: 09/964,143

Art Unit: 1615

Filed: 09/25/2001

For: Emollient Skin Conditioning Cream and Method

The U.S. Patent & Trademark Office  
Assistant Commissioner for Patents  
Washington, D. C. 20231

Re: INFORMATION DISCLOSURE STATEMENT

Pursuant to the guidelines of 37 CFR 1.97 to 1.98, enclosed are fourteen U.S. patents, one European Patent Application and one copy of chapters 4, 5 and 6 of Cosmetics, Science and Technology, edited by Edward Sagarin, copyright 1957, which are attached to the accompanying PTO-1449 Form. Please note that a concise statement of the relevance of each of the cited references is attached to said form under the heading Discussion of Art Cited By Applicant in accordance with 37 CFR 1.98(a)(3). I hereby certify that each item of information contained in this Information Disclosure Statement and cited in attached PTO-1449 Form is being cited within three (3) months from the filing date or before the receipt of the first Office Action, hence, no fee or certification is required.

Respectfully submitted,

*Richard N. Miller*

Richard N. Miller  
Reg. No. 22,977  
C/o Robert J. Kelleher, Esq.  
Crabtree & Evelyn, Ltd.  
Peake Brook Road  
Woodstock, CT 06281-0167

I hereby certify that this paper, along with any other papers or fee referred to in this paper as being transmitted herewith, is being deposited with the United States Postal Service to Addressee service, Express Mail Label No. ET 900291395, US Return Receipt Requested, on December 19, 2001, and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, by Richard N. Miller (Richard N. Miller).



## DISCUSSION OF ART CITED BY APPLICANT

The pertinence of the art cited by the Applicant follows:

1. U.S. Patent 3,092, 111 is cited as being of general interest and discloses a therapeutic paste composition for abrading the skin that contains a non-oleaginous detergent base of detergents and water having an inorganic abrasive suspended therein.
2. U.S. Patent 3,645, 904 is cited as being of general interest and discloses hand cleaners comprising hydrocarbons, water, an emulsifying agent, an organic thickening agent and particles of plastic resin material, e.g., polyethylene, as an abrasive agent.
3. U.S. Patent 4,265,899 is cited as being of general interest and discloses cosmetic compositions comprising soap containing 3-isothiazolones as a bacteriostat or biocide.
4. U.S. Patent 4,822,601 is cited as being of general interest and discloses a therapeutic composition for topical application to the skin that comprises, by weight, 1 – 15% of sucrose fatty acid ester and 3 – 45% of an acyl fatty acid lactylate ester in combination with Shea Butter in a solvent, e.g., water or glycerine.
5. U.S. Patent 5,223,559 discloses cosmetic compositions capable of blurring skin defects comprising a dispersion of spherical particles of an inorganic oxide or starch in a fatty binder comprising vegetable or synthetic oil, pigment and, optionally, a surfactant and/or a preservative. The exemplified compositions are in the form of a cream that is an oil-in-water emulsion.
6. U.S. Patent 5,360,824 is a very pertinent reference because it discloses an improved skin cleansing and wrinkle reducing cream comprising, by weight, an effective amount of water-soluble, skin abrading granules of a vitamin or vitamin yielding salt dispersed in an effective amount of a creamy oleaginous base, e.g., an oil or petroleum jelly. Example I does not exemplify the claimed therapeutic compositions, but it discloses a skin cream composition consisting of 20% by weight of sodium chloride particles dispersed in a base containing equal parts of corn oil and petroleum jelly. Because said composition is very pertinent to the claimed compositions, applicant reproduced said composition and found that the composition separates within one hour or less. This composition is included as an example of a non-operative prior art composition in the patent application.
7. U.S. Patent 5,510, 100 discloses cosmetic or dermatological compositions in the form of oil-in-water emulsions comprising, by weight, 5% - 40% of an oily phase; 0.5% - 5% of an auto-emulsifiable composition containing 60% - 90% of a fatty alcohol and 10% - 40% of an alkyl polyoside; 0.5% - 4% of a C14 – C20 fatty alcohol or C14 –C22 fatty acid or an alkyl glycerol ether; and the balance an aqueous phase. The disclosed compositions are in the form of non-analogous emulsions containing an emulsifying agent, not a suspending agent..

TECH CENTER 1600/2900

DEC 28 2001

RECEIVED

8. U.S. Patent 5,593,680 discloses and claims a cosmetic or dermatological composition comprising, by weight, 0.5% - 5% of hollow microspheres (a patented material) dispersed in a gel of a polymer or copolymer of an unsaturated organic carboxylic acid, e.g., Carbopol TM, in water. The exemplified compositions are aqueous gels containing at least about 90% of water, not a paste or cream as disclosed in the subject patent application.
9. U.S. Patent 5,679,326 discloses and claims a deep cleansing or exfoliating, oily composition comprising a cosmetic or dermatological medium containing fatty matter and deformable hollow particles having a particle size between 80 um and 300 um and a particle density between 15 kg/m<sup>3</sup> and 200 kg/m<sup>3</sup>. The fatty material comprises mineral oils, vegetable oils, fatty alcohols, fatty acids, fatty esters and silicone oils according to column 3, line 29 - 45. The suspended material is an expanded polymer or copolymer of vinylidene chloride, acrylonitrile, vinyl chloride, acrylic monomer or styrene monomer or mixtures of the foregoing. While the exemplified compositions are oil-in-water emulsions, column 2, lines 14 - 20, disclose a virtually anhydrous composition containing less than 10% by weight of water. Also, aluminum stearate is disclosed as a gelling agent.
10. U.S. Patent 5,711,942 discloses and claims non-analogous hair care emulsions containing only natural materials that are free of surfactants. The emulsified materials consist of 0.5% - 5% of a mono or polyglyceride fatty acid ester, 0.5% - 5% of trimethylglycine or panthenol and 0.5% - 8% of a saturated or unsaturated C6 - C22 fatty acid. This patent is cited as being of general interest.
11. U.S. Patent 5,800,608 discloses and claims a process for preparing precipitated silicas in the form of a powder of substantially spherical beads or granules that could function as a suspended abrasive material in skin creams
12. U.S. Patent 5,804,540 discloses and claims non-analogous, aqueous based, personal wash compositions comprising polymer thickened emollient oils dispersed in an aqueous detergent medium. The disclosed compositions contain many of the same oily compounds that are used in the subject patent application.
13. U.S. Patent 6,143,308 discloses and claims cosmetic or dermatological compositions gelled with a partially crosslinked organopolysiloxane in a fatty phase for removing make up from around the eyes. The oil phase may be silicone oil or plant oil according to column 5, line 13 et seq. The two exemplified compositions are anhydrous gels and the claimed invention is an anhydrous gel.
14. U.S. 6,165,510 is of general interest because it discloses a granular, inorganic, amorphous silica that is characterized by particle break down in the process of use of said particles as an exfoliating agent in a cosmetic composition. The described particles could be used as the skin compatible abrasive in the inventive compositions.
15. EP 0 295 886 A2 (European Patent Application) discloses and claims a facial cleanser containing an organopolysiloxane elastomer powder dispersed in a cosmetic composition that

my be a solid or paste or cream or emulsion (page 4, line 19 et seq.). The cosmetic compositions may contain oil emollients, fatty acids, alcohols, esters, etc. (page 4, line 39 et seq.) All of the exemplified compositions contain water even though the amount is not specified in Example 1. The disclosed abrasive material could be used in the inventive compositions.

16. The book entitled "Cosmetics, Science and Technology," edited by Edward Sagarin, copyright 1957, describes skin compositions in Chapters 4, 5 and 6. The disclosure describes the emollient fatty materials used by the applicant in the inventive composition. Further, it describes a multitude of skin compositions in the form of oil-in-water emulsions, water-in-oil emulsions, gelled liquids, creams and pastes. Further, the chapters describe particulate exfoliating materials, suspending agents, surfactants and emulsifying agents, etc., for use in skin compositions. Magnesium stearate is disclosed as a possible opacifying agent in a skin cream at a concentration of "approximately 2% by weight" at page 88.